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FM AMEMBASSY BAGHDAD
TO RUEHC/SECSTATE WASHDC PRIORITY 4078
INFO RUCNRAQ/IRAQ COLLECTIVE PRIORITY
RUEKJCS/SECDEF WASHINGTON DC PRIORITY
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C O N F I D E N T I A L SECTION 01 OF 02 BAGHDAD 003572

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E.O. 12958: DECL: 10/28/2017

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SUBJECT: NINEWA: TERRORISM COURT AT A TIPPING POINT -
TRAVELING JUDGES NEEDED (AGAIN)

Classified By: Ninewa PRT Leader Jason Hyland for reasons 1.4 (b) and (d)

This is a Ninewa Provincial Reconstruction Team (PRT) message.

Summary

¶1. (C/REL ACGU) The Ninewa Major Crimes Court, which tries the most difficult terrorism and corruption cases, is failing due to Chief Justice (CJ) Medhat's September 13 decision to abruptly end the province's "traveling judges" program. While the overall justice system in Ninewa functions effectively, the traveling judges program needs to be reinstated to return the effective adjudication of these high risk cases. For the past seven months, five panels of judges from Baghdad came to Mosul to try those cases in the Major Crimes Court (MCC). The panels were productive and effective because they were secured in a protected compound and immune to the local tribal, familial and terrorist pressures faced by Ninewa judges. They tried 192 cases and provided necessary oversight for the local Investigative Judges (IJs). With local judges now staffing the Mosul Major Crimes Court (MCC), the court has indefinitely postponed three-quarters of its 25 cases since September 13 because the judges fear for their safety.

Background: The MCC Begins, and is Effective

¶2. (C/REL ACGU) In November 2005, Ninewa's criminal justice system was not functioning effectively for terrorist and corruption cases. The PRT's Rule of Law Section proposed the formation of a traveling court to bring judges from Baghdad to Mosul to begin trying these controversial cases. CJ Medhat formed a panel of Ninewa IJs and sent three judges from Baghdad to conduct trials in Mosul. The Baghdad judges lived and worked in a secure compound, supervising the local IJs and trying cases until the docket was cleared.

¶3. (C/REL ACGU) The MCC in Mosul conducted five trial panels between December 15, 2006 and August 3, 2007, the results of which were:

- 192 Cases Tried
- 218 Defendants Tried, of these 120 were convicted and 98 acquitted

The main obstacle to the MCC had been the local IJs and their failure to forward cases for prosecution. The IJs are subject to local intimidation and corruption but the supervision provided by the visiting panels of trial judges

helped ensure the success of MCC. Absent such outside supervision, there was no likelihood that justice would be served in the MCC in Mosul.

Promises from Baghdad...Broken

¶4. (C/REL ACGU) In an August 27 meeting with PRT leader and BCT Commander, CJ Medhat promised that the visiting judge program would continue in Mosul, despite previous comments to the contrary. However, on September 13 Medhat issued an order directing the appointment of a local panel of trial judges, giving in to pressure from the local bar association, who had fought the MCC since its inception. The local trial panel told the PRT that they had postponed consideration on 18 of 25 terrorism cases they had seen due to the danger they perceived to their lives and the lives of their families. Since beginning to hear cases on September 30, the local panel has adjudicated only seven cases; four of these were acquittals.

Comment - Traveling Judges
the Only Way Forward...For Now

¶5. (C/REL ACGU) Mosul MCC needs traveling judges to ensure that corruption and terrorist intimidation does not prevent the adjudication of the hundreds of terrorism cases pending in Ninewa. The local MCC Panel has expressed interest in participating in the program currently used in Kirkuk, in which they would go to Baghdad to backfill for a traveling panel from Baghdad. (NOTE: The Kirkuk program appears to be a very positive one, and PRT Ninewa is seeking a solution that protects the gains made there.) This approach would

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build nationwide judicial capacity by putting Ninewa judges in a situation where they could practice without fear for their and their families' lives while simultaneously allowing the backlog of cases in Ninewa to be cleared. The PRT is working with our military and Iraqi colleagues to solve the judicial security dilemma, but for now, judges from Baghdad are the only way ahead.
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